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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/556,901 | 02/02/2006 | Mark Ashton | BJS-620-401 | 1869 |
| 23117 7590 03/26/2007 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | EXAMINER CHANDRAKUMAR, NIZAL S | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1625 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 03/26/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/556,901

Applicant(s)

ASHTON ET AL.

Examiner

Nizal S. Chandrakumar

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 and 34-50 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-31, 34-50 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

The application filed 02/02/2006 and is a 371 of PCT/GB04/02101 05/14/2004. After speaking with Attorney B. J. Sadoff on March 1st 2007, the Examiner has reconsidered the previous Restriction Requirement (02/26/2007), in favor of the instant Restriction Requirement.

Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I Claims 1-20 (in part) and 31 (in part) are drawn to compounds of the formula I wherein X = CH and L² is single bond.

Group II Claims 1-4 (in part), 6-20 (in part), and 31 (in part) and claim 5 are drawn to compounds of the formula I wherein X = CH and L² is optionally substituted C₁₋₄ alkylene.

Group III Claims 1-20 (in part) and 31 (in part) are drawn to compounds of the formula I wherein X = CH and L² is C(=O).

Group IV Claims 1-9 (in part) and 21-31 (in part) are drawn to compounds of the formula I wherein X = N and L² is single bond.

Group V Claims 1-9 (in part) and 21-31 (in part) are drawn to compounds of the formula I wherein X = N and L² is optionally substituted C₁₋₄ alkylene.

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Group VI Claims 1-9 (in part) and 21-31 (in part) are drawn to compounds of the formula I wherein $X = N$ and L^2 is $C(=O)$.

Group VII Claims 34-49 (in part) and claim 50 are drawn to compounds of the formula I wherein $X = CH$ and L^2 is single bond.

Group VIII Claims 34-48 (in part) are drawn to compounds of the formula I wherein $X = CH$ and L^2 is optionally substituted C_{1-4} alkylene.

Group IX Claims 34-49 (in part) are drawn to compounds of the formula I wherein $X = CH$ and L^2 is $L^7C(=O)L^8$.

Group X Claims 34-39 (in part) and claims 41-49 (in part) and claim 50 are drawn to compounds of the formula I wherein $X = N$ and L^2 is single bond.

Group XI Claims 34-39 (in part) and claims 41-48 (in part), are drawn to compounds of the formula I wherein $X = N$ and L^2 is optionally substituted C_{1-4} alkylene.

Group XII Claims 34-39 (in part) and claims 41-49 (in part) are drawn to compounds of the formula I wherein $X = N$ and L^2 is $L^7C(=O)L^8$.

The inventions listed as Groups I-XII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the common technical feature in all groups is the structural element aryl-alkyl-thio-alkyl-carboxylic acid. This element cannot be a special technical feature under PCT Rule 13.2 because this element is shown in the prior art. Lohse et al. teach (Journal of Agricultural and

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Food Chemistry, 2000, 48, 5913-5923) compounds with the same structural element for use in pharmaceuticals.

Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction were not required; because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions

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unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nizal S. Chandrakumar whose telephone number is 571-272-6202. The examiner can normally be reached on 8.30 am – 5 pm Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas McKenzie can be reached on 571-272-0670 or Primary Examiner D. Margaret Seaman can be reached at 571-272-0694. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For

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more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Nizal S. Chandrakumar


D. MARGARET SEAMAN
PRIMARY EXAMINER